

City of Medina Shoreline Master Program

Gap Analysis Report

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1. Introduction

In accordance with the Washington State Shoreline Management Act, local jurisdictions with “Shorelines of the State” are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (Washington Administrative Code [WAC] 173-26-090). The periodic review is intended to keep SMPs current with amendments to state laws, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

The lone Shoreline of the State in the City of Medina (City) is Lake Washington.

The City’s most recent update of its SMP took place in 2014 (Ordinance No. 906), establishing regulations under Subtitle 20.6 Shoreline Master Program within the Medina Municipal Code (MMC). The City’s SMP outlines goals and policies for the shorelines of the City, and also establishes regulations for development occurring within shoreline jurisdiction. The City’s current SMP establishes its own critical areas regulations within Chapter 20.67.

Since adoption of the SMP, the City-wide critical areas regulations have been amended by Ordinance No. 924 (2015). The City-wide critical areas regulations are codified as MMC Chapter 20.50 Critical Areas. The City anticipates updating Chapter 20.67, Critical Areas in the Shoreline, to reflect changes which were made per the City-wide critical areas regulation in 2015, while also incorporating new guidance from the Washington State Department of Ecology (see Section 3 of this report).

As a first step in the periodic review process, the City’s current SMP was reviewed by City staff and consultants. The purpose of this Gap Analysis Report is to provide a summary of the review and inform updates to the SMP. This report is organized into the following sections:

- **Section 2** identifies gaps in consistency with state laws. This analysis is based on a list of amendments between 2007 and 2017 as summarized by the Washington State Department of Ecology (Ecology) in its Periodic Review Checklist.
- **Section 3** identifies issues with integrating the City’s most recent (2015) critical areas regulations into the updated SMP.
- **Section 4** identifies gaps in consistency and implementation between the updated SMP and the City’s Comprehensive Plan and Zoning Code.
- **Section 5** identifies other issues to consider as part of the periodic update process to produce a more effective SMP.

This report includes several tables that identify potential revision actions. Where potential revision actions are identified, they are classified as follows:

- **“Mandatory”** indicates revisions that are required for consistency with state laws.
- **“Recommended”** indicates revisions that would improve consistency with state laws, but are not strictly required.

- **“Optional”** indicates legislative amendments that can be adopted at the City’s preference, but are not required.

This document attempts to minimize the use of abbreviations; however, a select few are used to keep the document concise. These abbreviations are compiled below in Table 1-1.

Table 1-1. Abbreviations used in this document.

Abbreviation	Meaning
CAO	Critical Areas Ordinance
City	City of Medina
Ecology	Washington State Department of Ecology
MMC	Medina Municipal Code
RCW	Revised Code of Washington
SMP	Shoreline Master Program
USACE	US Army Corps of Engineers
WAC	Washington Administrative Code
WDFW	Washington Department of Fish & Wildlife

2. Consistency with State Laws

Table 2-1 summarizes potential revisions to the City’s SMP based on a review of consistency with amendments to state laws identified in the Periodic Review Checklist provided by Ecology. Topics are organized chronologically by year.

Only a limited number of revisions in Table 2-1 are classified as “mandatory.” Furthermore, the revisions classified as “mandatory” are anticipated to be minor in effect.

Table 2-1. Summary of consistency with amendments to state laws and potential revisions.

Row	Summary of change	Review	Action
2017			
a.	Washington State Office of Financial Management (OFM) adjusted the cost threshold for substantial development to \$7,047.	Medina Municipal Code (MMC) 20.70.040, Substantial development permit exemption, references WAC 173-27-040, which adjusts automatically for inflation. This is referenced in the SMP by MMC 20.62.020, Permitted uses, prohibited uses.	No action necessary.
b.	Ecology amended rules to clarify that the definition of “development” does not	MMC 20.60.213 “D” Definitions includes the following for “Development” means a use consisting of the construction or	No action necessary.

Row	Summary of change	Review	Action
	include dismantling or removing structures.	<p><i>exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulk heading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level.</i></p> <p>Ecology suggested language. <i>"Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. <u>"Development" does not include dismantling or removing structures if there is no other associated development or re-development.</u></i></p> <p>After discussion with the City, Ecology's language related to exempting dismantling/removal of overwater/shoreline structures from the scope of a shoreline "development" is only suggested. Because such work necessarily occurs in the shoreline zone and impacts of removal can be significant in and of themselves, the City may wish to take a more protective stance and continue to require SDPs for such work.</p>	

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
c.	Ecology adopted rules that clarify exceptions to local review under the SMA .	There is not a section dedicated to exceptions.	Mandatory: MMC 20.62, Shoreline Use Regulations, should be updated with a subsection that refers directly to exceptions in WAC 173-27-044, and -045, as amended.
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	MMC Chapter 20.80, Project Permit Review Procedures, does not describe the filing process. However, the Administration subsection of the SMP (MMC 20.60.060) can introduce how date of filing applies to various shoreline permits.	Recommended: MMC 20.60.060 should be updated to state that filing with Ecology shall be done pursuant to WAC 173-27-130.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	Under MMC 20.62.030, Shoreline use table, forest practices are a prohibited activity in all shoreline environments. This amendment does not apply.	No action necessary.
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	No SMA lands in Medina are under “exclusive federal jurisdiction.”	No action necessary.
g.	Ecology clarified “default” provisions for nonconforming uses and development .	MMC 20.60.223, “N” Definitions, defines “nonconforming structure” and “nonconforming use.” MMC 20.66.090, Nonconforming development, addresses regulations for nonconforming structures, nonconforming uses, and nonconforming lots.	No action necessary.
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	This is optional and the current SMP does not address the periodic review provision. The SMP (MMC 20.81) does reference WAC 173-26 for amendment procedures.	No action necessary.
i.	Ecology adopted a new rule creating an optional SMP amendment process that	The SMP does not include updates to this process. The SMP (MMC 20.81) does reference	No action necessary.

Row	Summary of change	Review	Action
	allows for a shared local/state public comment period.	WAC 173-26 for amendment procedures.	
j.	Submittal to Ecology of proposed SMP amendments.	This is optional and the SMP does not address the process for SMP amendments. The SMP (MMC 20.81) does reference WAC 173-26 for amendment procedures.	No action necessary.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	MMC 20.70.040, Substantial development exemption, references WAC 173-27-040, which lists this exemption.	No action necessary.
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	MMC 20.67.070(B) lists the outdated version of the Washington State Wetlands Identification and Delineation Manual, though it states “as revised.” Table 20.67.070(C), Wetland categories, references point values associated with the outdated rating system. Table 20.67.070(E), Wetland Buffer Widths, references habitat point values associated with the outdated rating system.	Mandatory: Amend MMC 20.67.070(B) to reference the 2014 wetlands rating system; amend Table 20.67.070(C) to reference point values associated with the 2014 wetland ratings system; amend Table 20.67.070(E) to reference habitat point values associated with the 2014 wetlands rating system.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	This is optional and the SMP does not address the process for WSDOT projects.	No action necessary.
2014			
b.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to	MMC 20.70.040, Substantial development exemption, references WAC 173-27-040, which lists SDP exemptions.	No action necessary.

Row	Summary of change	Review	Action
	\$22,500 ¹ (from 10,000) and all freshwater docks to \$11,200.		
c.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	MMC Table 20.62.030, Shoreline use table, does not allow residential uses in aquatic shoreline designations. Therefore, this regulation does not apply. No floating residences exist in Medina.	No action necessary.
Medina Shoreline Master Program Update, Ordinance No. 906, adopted April 14th, 2014.			
2013 – no applicable legislative actions			
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	The Medina SMP does not address the SMP appeal process directly, but MCC 20.60.030 references WAC 173-26, which includes the SMP appeal procedures.	No action necessary.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	MMC 20.67.070(D), Mapping, states “The exact location of a wetland’s boundary shall be determined through the performance of a field investigation by a qualified professional in accordance with the approved federal wetland delineation manual and applicable regional supplements set forth in WAC 173-22-035.”	No action necessary.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	There are no marine shorelines within City limits. Therefore, this rule does not apply.	No action necessary.
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	The City has no floating homes. Therefore, this new definition does not apply.	No action necessary.

¹ Based upon OFM Notice of Substantial Development Dollar Threshold Adjustment in accordance with RCW 90.58.030 (3)(e)(vii), effective November 4, 2018.

Row	Summary of change	Review	Action
d.	The Legislature authorized a new option to classify existing residential structures as conforming .	MMC 20.66.090, Nonconforming development, establishes legally established structures that are nonconforming can be expanded, so long as they do not increase the non-conformance. The legislative option would allow existing legally established non-conforming residential structures to become conforming. The City did not include this allowance as part of the 2014 SMP update and rather kept the non-conforming rules in MMC 20.66.090.	No action necessary.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	MMC already contains references to “no net loss” in MMC 20.67, Critical Areas in the Shoreline. The SMP does not reference the SMP Amendment process directly; MMC 20.60.030(C) references WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines.	No action necessary.
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	The SMP does not address such relief procedures.	Recommended: Reference the relief procedures under MMC 20.63, Shoreline General Development Standards. Example language from Ecology is as follows: The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

Row	Summary of change	Review	Action
b.	Ecology adopted a rule for certifying wetland mitigation banks .	The rule currently exists in the SMP, codified in MCC 20.67.70(O)(7), Wetland Mitigation Banks.	No action necessary.
c.	The Legislature added moratoria authority and procedures to the SMA.	Moratoria procedures are not required to be included in SMP. The City may rely on statute: WAC 173-27-085 if they choose to include this provision at a later date.	Recommended based on discussion with City, add section that incorporates moratoria by using Ecology's example wording.
2007			
a.	The Legislature clarified options for defining " floodway " as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	<p>There are no FEMA mapped floodways within shoreline jurisdiction and Frequently Flooded Areas are not included as a critical area per the City's critical areas regulations. Note, under MMC 20.65.215, "F" Definitions, "Floodway" is not defined. This section does define "floodplain" and "flood protection elevation:"</p> <p>"Floodplain" is synonymous with 100-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. "Flood protection elevation" means the elevation that is one foot above the base flood elevation. This is a reference to the existing FEMA maps.</p> <p>Ecology gives the City two options, to either 1) define the floodway under a biological definition under RCW 90.50.030(2)(b)(ii) or 2) utilize existing FEMA maps to define the floodway which is ultimately derived from flood modeling.</p> <p>MMC 20.67.080(C), Geologically hazardous areas, Mapping,</p>	No action necessary.

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
		adopts Federal Emergency Management Administration flood insurance maps.	
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	20.60.050, Applicability, lists Lake Washington and 20.61.020, Shoreline jurisdiction and shoreline map, provides a map of the City's shoreline jurisdiction.	No action necessary.
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	MMC 20.70.040, Substantial development exemption, references WAC 173-27-040, which lists this exemption.	No action necessary.

3. Integration of Current Critical Areas Regulations

The City's current SMP has adopted its own critical area regulations, specifically MMC Chapter 20.67, Critical Areas in the Shoreline. Since adoption of the SMP in 2014, City-wide critical areas regulations have been amended, most recently in 2015 by Ordinance No. 924. The City's current SMP includes critical areas regulations that are slightly out of date and no longer entirely consistent with the critical areas regulations that currently apply in non-shoreline areas of the City.

There are inconsistencies with recent Department of Ecology guidance on wetland buffers. The inconsistent regulations are identified below (Table 3-1) and should be resolved as part of the periodic SMP update process.

Table 3-1. Summary of gaps in consistency with current critical areas regulations and associated recommended SMP revisions.

#	Issue	Relevant Location(s)	Review & Action
Applicability			
1	Wetland Rating System	<u>MMC 20.67 Wetlands:</u> <i>Section MMC</i> <i>20.67.070.B Wetland Ratings; Table</i> <i>20.67.070(C): Wetland Categories; Table</i> <i>20.67.070(E) Wetland Buffer Widths</i>	<u>Review:</u> <p>Section MMC 20.67.070.B states that wetlands shall be rated using the Department of Ecology wetland rating system: "Ecology Publication No. 04-06-025, or as revised and approved by Ecology." The Department of Ecology has since published the 2014 rating system.</p> <p>Table 20.67.070(C): Wetland Categories cites point values associated with the 2004 wetland rating system, which is no longer in use in the City.</p> <p>Table 20.67.070(E) Wetland Buffer Widths cites habitat point values associated with the 2004 wetland rating system, which is no longer in use in the City.</p>

#	Issue	Relevant Location(s)	Review & Action
			<p><u>Action:</u></p> <p><i>Recommended:</i></p> <p>Section MMC 20.67.070(B) should state that wetlands shall be rated using the 2014 Department of Ecology wetland rating system: "Ecology Publication No. 14-06-029, or as revised and approved by Ecology." The "or as revised and approved by Ecology" wording should be kept in anticipation of future rating system updates.</p> <p>Table 20.67.070(C): Wetland Categories should be updated with point values associated with the 2014 wetland rating system.</p> <p>Table 20.67.070(E): Wetland Buffer Widths should establish buffer widths based upon wetland category and habitat scores associated with the 2014 rating system. The table should be replaced with the guidance below.</p>
Wetlands			
2	Wetland buffer table change.	<p><u>MMC 20.67 Critical Areas in the Shoreline:</u></p> <p><i>Table 20.67.070(E)</i></p> <p><i>Wetland Buffer Widths</i></p>	<p><u>Review:</u></p> <p>The current SMP specifies wetland buffers based on wetland category and habitat scores as determined by the 2004 Ecology wetland rating system. The resulting buffer widths identified in the current SMP are not consistent with the City's CAO nor Ecology guidance published in 2014 and revised in 2018.</p> <p><u>Action:</u></p> <p><i>Recommended:</i> Revise the existing wetland buffer provisions in MMC Table 20.67.070(E) for consistency with the recently adopted CAO in 2015, specifically MMC 20.50.100(E). Based</p>

#	Issue	Relevant Location(s)	Review & Action
			upon the limited scope of this update, a discussion on a City-wide level for wetland buffers related to recent Ecology guidance can be considered at a later date. A discussion of the 2018 guidance is provided below for future consideration.

Continuing discussion on item #2 in Table 3-1 above, newly recommended wetland buffer widths (July 2018) are based upon review of wetland category and habitat score, reflecting best available science by Department of Ecology. In a survey of reference wetlands, Ecology determined more were similarly distributed to scoring between 3-5 points for habitat score than 3-4 points as the original low habitat break point (Ecology 2018). Therefore, the breaks and revised wetland buffer table are as follows under Table 3-2 below.

Wetland buffer impact minimization measures can also be used in allowing buffer averaging for development. The following minimization measures under Table 3-3 allow buffer averaging to no less than 75% of the original buffer requirement (Ecology 2016). A request for buffer averaging requires a wetland report by a qualified professional detailing no net loss of wetland functions. In addition to applying all minimization measures, if a conservation easement corridor connects WDFW priority habitats within a wetland buffer with moderate habitat scores, a buffer reduction to 110 feet is allowed (Ecology 2018). This change is shown in Table 3-2 below.

To align with the updated guidance, we recommend adopting the revised wetland buffers (Table 3-2) and impact minimization measures (Table 3-3), below under MMC 20.67.070.

Table 3-2. Wetland buffer widths (in feet) under MMC 20.67 and under Ecology's most recent guidance (Ecology 2018).

Existing MMC Table 20.67.070(E)*					Proposed Per 2018 Ecology Guidance					
Category	Habitat Scores				Without minimization measures			With minimization measures & habitat corridor		
	<21	21-25	26-29	30-36	Habitat Score			Habitat Score		
	Minimum Buffer Width				Low (3-5)	Moderate (6-7)	High (8-9)	Low (3-5)	Moderate (6-7)	High (8-9)
I	75	105	165	225	100	150	300	75	110	225
II	75	105	165	225	100	150	300	75	110	225
III	60	105	165	NA	80	150	300	60	110	225
IV	40	NA	NA	NA	50			40		

*Building Setback from Buffer column not included in analysis

Table 3-3. Wetland buffer impact minimization measures (Ecology 2016).

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development (LID) techniques where appropriate (for more information refer to the drainage ordinance and manual)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust

4. Consistency with Comprehensive Plan & Other Development Regulations

Based on a review of consistency with the City's Comprehensive Plan and MMC Title 20, there are no inconsistencies observed within the City's SMP. The Shoreline Management Sub-Element of the Medina Comprehensive Plan references the SMP as the lead regulatory document for the City in addressing development and activities within and along Lake Washington.

5. Other Issues to Consider

In addition to the issues discussed in the previous sections of this report, several other issues in the current SMP could be addressed as part of the periodic update process to produce a more effective SMP. These other issues are described in Table 5-1 below.

Table 5-1. Other issues that could be addressed to produce a more effective SMP.

#	Issue	Relevant Location(s) ¹	Review & Action
General			
1	Typo present; "were" should be "where."	MMC 20.63.050, Development standards for divisions of land and lot line adjustments: A.2.b Lot width is measured as the mean horizontal distance between the side lot lines where the building envelope is located, except were a lot is irregularly shaped (i.e., less than two side lot lines) the lot width may be determined using lot lines corresponding to the longer dimensions of the lot;	Review: Bolded "were" should read "where." Action: Update MMC 20.63.050.A.2.b bolded "were" to "where."
2	Shoreline Setbacks Diagram legend is inconsistent with pattern used to designate 50' setback.	<u>MMC 20.63.030, Shoreline setbacks from Lake Washington:</u> Figure 20.63.030(A): Shoreline Setbacks	Review: The Shoreline Setbacks figure designates areas where various setbacks are applicable. Five categories of setbacks are mapped. The legend indicates that the 50' setback should be shown in a checked pattern, but this pattern is not seen on the map. Instead, areas where the 50'

#	Issue	Relevant Location(s) ¹	Review & Action
			<p>setback is to be applied are mapped with diagonal parallel lines slanting downward to the right.</p> <p><u>Action:</u> Update legend to show diagonal parallel lines next to the "50' Setback" designation.</p>
3	A residential development requirement needs clarification because of different interpretations.	<u>20.64.010 Residential development, requirement E.</u>	<p><u>Review:</u> City staff and Ecology interpret this requirement differently. Needs clarification to identify when the setback is required.</p> <p><u>Action:</u> Change wording to, "...each <u>additional</u> single-family dwelling with..." to clarify when the setback requirement takes effect.</p>
4	Definition of "replacement" is missing.	<u>20.60.227 "R" definitions</u>	<p><u>Review:</u> Definition is not included and has led to a "loose" interpretation of 'replacement'.</p> <p><u>Action:</u> Incorporate definition from WAC 173-27-040: <i>"Replacement" means a new structure or development that is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance.</i></p>
5	Shoreline Use Table change.	<u>Table 20.62.040 Shoreline Use Table</u>	<p><u>Review:</u> In discussions with the City, accessory uses/buildings currently have to be located on the same lot as a single family</p>

#	Issue	Relevant Location(s) ¹	Review & Action
			dwelling. This could increase density along shorelines. <u>Action:</u> Delete this requirement from the table.
6	New construction mitigation plan.	<u>20.67.050(D)(7) General requirements for Critical Areas in the Shoreline section</u>	<u>Review:</u> <u>The City notes that a new 'Construction Activities Permit' is in the works and should be referenced for regulatory consistency (upland and shoreline construction should be subject to the same impact limitation requirements).</u> <u>Action:</u> <u>Incorporate a reference to the new Construction and Mitigation Plan within this section.</u>
Use and Development			
7	Low Impact Development (LID) to be exclusively allowed within shoreline setback areas.	MMC 20.66.060, Water quality, surface water runoff, and nonpoint pollution: D. Where feasible, shoreline development must implement low impact development techniques pursuant to the standards contained in the adopted Surface Water Design Manual and the Low Impact Development Technical Guidance Manual for Puget Sound or successor. (Ord. 906 § 3 (Att. A), 2014) MMC 20.66.040, Public Access:	<u>Review:</u> Low impact Development is listed twice in the General Shoreline regulations section of the code (MMC 20.66) as well as defined under MMC 20.60.221 "L" below. The current regulations require LID techniques be implemented "where feasible." <u>Action:</u> Upon discussion with the City, add Low Impact Development as a required use in the setback, amending MMC 20.63.030.C(5),

#	Issue	Relevant Location(s) ¹	Review & Action
		<p>C. Public access shall incorporate the following elements:</p> <p>2. Use of environmentally friendly techniques such as low impact development, if feasible;</p> <p>MMC 20.63.030.C, Exemptions to shoreline setbacks from Lake Washington.</p> <p>5. Bio-retention swales, rain gardens, and other similar bio-retention systems that allow filtration of water through vegetation;</p>	<p>Shoreline setbacks from Lake Washington.</p> <p>Since LID is a mechanism to further protect buffers and thus shoreline environments, and because intrusion into such buffers is already being allowed (else you wouldn't be requiring LID), the maximum protection should be required. This is consistent with the SMP's intent to achieve no-net loss of shoreline functions with a development proposal.</p>
8	Signage section – confirm lack of conflict with Reed v. Gilbert	<p><u>MMC 20.64.070 Signage</u></p> <p><i>E. Freestanding signs are prohibited, except one freestanding temporary real estate sign may be allowed;</i></p>	<p><u>Review:</u></p> <p>Regulations should avoid sign content itself. Therefore, the phrase, 'real estate' should be removed from MMC 20.64.070 to be consistent with case law.</p> <p><u>Action:</u></p> <p>Remove 'real estate' from MMC 20.64.070</p>
9	Structural shoreline stabilization lacks clarity on the difference between "retaining wall" and "bulkhead"	<p><u>MMC 20.60.211 "B" definitions</u></p> <p><i>"Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to and near the ordinary high water line and/or the ordinary high water mark consisting of concrete, timber, steel, rock, or other permanent material for the purpose of protecting adjacent wetlands and uplands from waves and currents.</i></p>	<p><u>Review:</u></p> <p>MMC defines bulkhead, but does not define retaining wall. The two are listed as separate items in the shoreline stabilization measures list.</p>

#	Issue	Relevant Location(s) ¹	Review & Action
		<p><u>MCC 20.60.227 “R” definitions</u> <i>No definition for “retaining wall.”</i></p> <p><u>MMC 20.65.200 Shoreline stabilization – General provisions</u> <i>H. The following is a list of examples of shoreline stabilization measures that range from nonstructural to soft to hard structural measures:</i></p> <p>...</p> <ul style="list-style-type: none"> • Retaining walls and bluff walls; and • Bulkheads 	<p><u>Action:</u> Recommend inserting a definition for “retaining wall” into MCC 20.60.227 “R” definitions.</p>
10	<p>Structural shoreline stabilization measures list lacks wave attenuation features (logs, large rocks)</p>	<p><u>MMC 20.65.200 Shoreline stabilization – General provisions</u> <i>H. The following is a list of examples of shoreline stabilization measures that range from nonstructural to soft to hard structural measures:</i></p> <p><u>MMC 20.65.250 Structural shoreline stabilization – Design requirements.</u> <i>B. For soft structural shoreline stabilization:</i></p> <p>2. Size and the arrangement of gravel, cobbles, logs and boulders shall be in a manner that improvements remain stable long-term and dissipate wave energy, without presenting extended linear faces to oncoming waves; and</p>	<p><u>Review:</u> Logs and boulders are mentioned in the design requirements for soft shoreline stabilization (MMC 20.65.250.B.2), but are not included in shoreline stabilization measures list (MMC 20.65.200.H). This list includes “beach enhancement” as a soft shoreline stabilization measure, but doesn’t define the term.</p> <p><u>Action:</u> Recommend including “logs and boulders” in shoreline stabilization measures list (MMC 20.65.200.H) and define “beach enhancement” explicitly in this list to include logs and large rocks for attenuating wave energy.</p>

#	Issue	Relevant Location(s) ¹	Review & Action
11	Unclear if restoration activities that necessitate a breakwater, jetty, groin or weir must serve a public purpose.	<p><u>20.65.400 Breakwaters, jetties, groins and weirs.</u></p> <p><i>A. Breakwaters, jetties, groins, and weirs located waterward of the ordinary high water mark shall be allowed only where necessary to support public water-dependent uses, public access, other specific public purpose or restoration activities.</i></p>	<p><u>Review:</u></p> <p>Other listed allowed projects must be for public purposes (“public water-dependent uses, public access, other specific public purpose”) but “restoration” item does not include “public.” Restoration in its nature would provide a net benefit in shoreline functions, even with the listed shoreline modifications.</p> <p><u>Action:</u></p> <p>Recommend adding, ‘public or private’ after restoration activities to allow restoration work to include a breakwater, jetty, groin or weir, if necessary. Therefore, a restoration activity including one of these shoreline modifications may occur from a public or private entity.</p>
12	Tree and shrub shoreline mitigation planting plan requirements	<p><u>20.67.050.D.7.d Mitigation Plan Requirements.</u></p> <p><i>d. A planting plan specifying plant species, quantities, locations, size, spacing, and density, with density standards as follows:</i></p> <p><i>i. Forested conditions:</i></p> <p><i>(1) Trees: Nine feet on center, or 0.012 trees per square foot (this assumes two- to five-gallon size) with at least 50 percent conifers;</i></p> <p><i>(2) Shrubs: Six feet on center, or 0.028 shrubs per square foot (this assumes one- to two-gallon size); and</i></p>	<p><u>Review:</u></p> <p>City arborist consultant pointed out code instances where mitigation plan requirements do not adequately align with real-world constraints, especially for fully forested and fully grassed areas along the shoreline. Specifically, heavily forested sites cannot place additional trees and grassed shoreline areas should consider including more trees along the shoreline.</p> <p><u>Action:</u></p> <p>Add provisions for minimum tree and shrub counts in more open, grassed areas of the shoreline</p>

#	Issue	Relevant Location(s) ¹	Review & Action
		<p>(3) <i>Herbs and groundcovers: Four feet on center, or 0.063 plants per square foot (this assumes 10-inch plug or four-inch pot).</i></p> <p>ii. <i>Shrub conditions:</i></p> <p>(1) <i>Shrubs: Five feet on center, or 0.04 shrubs per square foot (this assumes one- to two-gallon size); and</i></p> <p>(2) <i>Herbs and groundcovers: Four feet on center, or 0.063 plants per square foot (this assumes 10-inch plug or four-inch pot).</i></p> <p>iii. <i>Emergent, herbaceous and /or ground-cover conditions:</i></p> <p>(1) <i>Herbs and groundcovers: One foot on center, or one plant per square foot (this assumes 10-inch plug or four-inch pot); or</i></p> <p>(2) <i>Herbs and groundcovers: 18 inches on center, or 0.444 plant per square foot if supplemented by over-seeding of native herbs, emergent or graminoids as appropriate;</i></p>	<p>while allowing a shrub replacement at a 3:1 ratio in instances where the existing shoreline canopy is mature and cannot add additional trees/canopy coverage.</p>
13	<p>New or replaced Boatlift mitigation requirements: US Army Corps Regional General Permit-1 Expired</p>	<p><u>20.65.120(D) Boatlifts.</u></p> <p><i>Mitigation shall be provided consistent with the U.S. Army Corps of Engineers requirement for watercraft lift mitigation set forth in the Regional General Permit 1 for Watercraft Lifts in the Lake Washington and Lake Sammamish Systems and subsequent renewals too.</i></p>	<p><u>Review:</u></p> <p>Boat lift regulations reference an expired US Army Corps of Engineers (USACE) Regional General Permit (RGP)-1. This permit was never replaced. Specifically, within USACE RGP-1 mitigation was left to ‘as applicable’ for overwater coverage. Most neighboring jurisdictions do not require mitigation for boat lifts unless they create additional overwater coverage.</p>

#	Issue	Relevant Location(s) ¹	Review & Action
			<u>Action:</u> Remove this outdated reference and make note that mitigation requirements apply to overwater platform boat lifts that increase overwater coverage.
¹ This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP, all relevant locations may not be listed.			

6. References

Ecology (Washington State Department of Ecology). July 2018. July 2018 Modifications for Habitat Score Ranges. Modified from Wetland Guidance for CAO Updates: Western Washington Version. Ecology Publication No. 16-06-001. Accessed on November 2018. <https://fortress.wa.gov/ecy/publications/parts/1606001part1.pdf>

Ecology (Washington State Department of Ecology). June 2016. Wetland Guidance for CAO Updates: Western Washington Version. Ecology Publication No. 16-06-001. Accessed November 2018. <https://fortress.wa.gov/ecy/publications/documents/1606001.pdf>